IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No. 29 of 1996

Dated : 25.7.2005

Between:

Kunapamula Kondaiah & others.

.. Petitioners

and

State of A.P., rep. by its Secretary to

Government, Social Welfare Department,

Secretariat, Hyderabad & others.

.. Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No. 29 of 1996

ORDER:

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The petitioners who are the tenants, trustees and former trustees of Madana Gopala Swamy Vari Devasthanam filed this writ petition questioning the Section 4(1) Notification issued by the respondents proposing to acquire the land to an extent of Ac.9.55 cents belonging to Devasthanam for the purpose of providing house sites to Scheduled Caste and Backward Caste Weaker Sections of the society by dispensing with the enquiry under Section 5-A of the Land Acquisition Act on various grounds. The petitioners main attack on the acquisition is that the land which is proposed to be acquired is a double crop wet land and is not adjacent to highway and is about 4 feet below the road level and it is not at all fit for house sites and notice of acquisition is not given to the petitioners 1 and 2 though they are cultivating tenants in respect of the said land.

The contention of the learned Government Pleader is that notice is published in the newspapers and that the land is fit for house sites.

The specific allegation of the petitioners that the land proposed to be acquired is low-lying and is in the middle of cultivable lands is not denied or disputed by the respondents by filing counter affidavit though the writ petition is of the year 1996. That apart, respondents dispensing with the enquiry under Section 5-A of the Land Acquisition Act in a routine fashion, without applying the mind to the facts of the case and the real urgency is improper in view of the ratio in **Union of India v. Krishan Lal Arneja** and **Union of India v. Deepak Bhardwaj**.

Hence petition is allowed and the notification impugned is quashed. No costs.

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C.Y.SOMAYAJULU, J

Date: 25.7.2005

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